

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

LARRY GIRON,

Plaintiff,

v.

No. CIV 08-491 BB/RHS

PROTECTION TECHNOLOGY
LOS ALAMOS, d.b.a SOC Los Alamos,

Defendant.

MEMORANDUM OPINION IN SUPPORT
AND
ORDER OF REMAND

THIS MATTER is before the Court on Plaintiff's motion to remand, and the Court having considered the briefs of counsel and having entertained oral argument on the original complaint, finds nothing in the amended complaint supports federal jurisdiction, and this Court is without jurisdiction.

Discussion

Defendant's removal was based on federal question jurisdiction 28 U.S.C. § 1441(a). The original complaint referenced Title VII and the Age Discrimination in Employment Act. Plaintiff argued these references to federal law were to merely illustrate Plaintiff belonged to a protected class. *See Morris v. City of Hobart*, 39 F.3d 1105, 1111 (10th Cir. 1994) (not every citation to federal law will support federal

jurisdiction). Plaintiff's amended complaint makes absolutely no claim based on federal law and, indeed, all five causes make reference only to New Mexico statutory or common law causes of action. To support removal, a federal question must exist on the face of the complaint. *Topeka Housing Auth. v. Johnson*, 404 F.3d 1245, 1247 (10th Cir. 2005); *Whitelock v. Leatherman*, 460 F.2d 507, 514 (10th Cir. 1972). No such federal question exists in the present case.

ORDER

For the above stated reasons, this Court lacks jurisdiction. This case is remanded to the First Judicial District Court, State of New Mexico.

SO ORDERED this 14th day of September, 2009.

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BRUCE D. BLACK
United States District Judge